S.B.Civil Writ Petition No.1995/2006

Surendra Nath. vs. State of Raj. and others.

Date : 3.7.2007

HON'BLE MR. PRAKASH TATIA, J.

Mr.DK Gaur, for the petitioner.

Mr.OP Boob, Addl.GA, for the respondents.

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At the request of learned counsel for the parties, this writ petition is heard and decided finally.

It appears from the facts of the case that a joint writ petition was filed by 28 petitioners including the present petitioner being writ petition no.5220/1990. The grievance of the petitioners in the said writ petition no.5220/1990 was that despite their selection, the respondents are not offering appointment to them. An affidavit was submitted on behalf of the petitioners that after filing of the writ petition, relief prayed for has been granted. On this affidavit, the writ petition no.5220/1990 was dismissed vide order dated 4.11.1997 as infructuous.

The present petitioner thereafter filed another writ petition no.2947/2004 and submitted that though in writ petition no.5229/1990, it was submitted that the appointment has been given to the writ petitioners

including the present petitioner but subsequently, the petitioner found that the petitioner was not given appointment because of pendency of one criminal case. The petitioner submitted that he gave several representations and pointed out that he has been acquitted by the criminal court and, therefore, he may be given appointment. Those representations were not considered by the respondents, therefore, the petitioner prayed that his representation may be considered. This Court in petitioner's writ petition no.2947/2004 after taking note of the fact stated above, disposed of the writ petition by order dated 22.2.2005 and ordered that if it is found that the petitioner is entitled for any relief in accordance with law, then the same may be given to the petitioner and if the petitioner is not found entitled to the relief sought for, then a brief reasoned order may be passed after affording an opportunity of hearing to the petitioner.

The respondents thereafter rejected the petitioner's representation after holding that in fact, the list was issued by the department on 28.5.1990. New process of selection started in pursuance thereto as per the directions dated 11.7.1990 and, therefore, the select list has already expired and, therefore, no new appointment can be granted on the basis of any earlier order. One of the further reason given is that the

petitioner submitted representation after date.

Learned counsel for the petitioner submitted that the petitioner got the copy of the order after some time and a short delay cannot be a reason for rejection of the petitioner's representation for grant of appointment. It is also submitted that some other persons have been given appointment but the petitioner has been denied.

I considered the submissions of learned counsel for the petitioner and perused the facts of the case.

It is admitted fact that a joint writ petition was filed by 28 petitioners including the present petitioner being writ petition no.5220/1990. In said writ petition, it was submitted that the appointments have been given and the writ petition was got dismissed. If the contention of the petitioner that he was not given appointment because of the pendency of the criminal case, then that contention is contrary to what has been submitted in earlier litigation.

Be it as it may be, in the earlier process of selection, the petitioner was given appointment was the fact stated by the petitioner and that was wrong. In the second writ petition no.2947/2004 filed by the petitioner alone, this Court took note of all these

facts and only granted relief for consideration of the petitioner's representation and with a clear direction that if it is found that the petitioner is entitled for any relief in accordance with law, then the same may be given to the petitioner and if the petitioner is not found entitled to the relief sought for, then a brief reasoned order may be passed after affording an opportunity of hearing to the petitioner.

In the present case, from the documents of the petitioner himself, it is clear that the petitioner's representation was considered and he was not found eligible to be given appointment in pursuance of the select list which was issued as back as on 28.5.1990. That was because of the reason that new process of selection was started and process of selection itself has been completed, therefore, earlier selection list expired. In that fact situation, the respondents have rightly refused to give any appointment and has already decided the representation of the petitioner.

In view of the above, the present writ petition, having no merits, is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya